

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE CORRECTIVE )  
ACTION ORDER ISSUED TO IACONO - )  
SUMMER CHASE APARTMENTS, L.P. IN )  
ACCORDANCE WITH 26 DEL. ADMIN. C. )  
§8001 )  
(Filed October 30, 2015) )

**CORRECTIVE ACTION ORDER NO. 8813**

**AND NOW**, this 3<sup>rd</sup> day of November, 2015, the Delaware Public Service Commission ("Commission") determines and orders the following:

**WHEREAS**, the Commission has qualified for federal certification to operate a state pipeline safety compliance program pursuant to 49 U.S.C. §60105(a) and has the authority pursuant to 26 Del. C. §821 to make and enforce rules required by the federal National Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. Chapter 601); and

**WHEREAS**, the Commission is authorized by the Federal Pipeline Safety Regulations, 49 C.F.R., Parts 190-193 and 198-199, to order remedial actions and impose civil penalties where appropriate; and

**WHEREAS**, Iacono - Summer Chase Apartments, L.P. ("Iacono") is an "Operator" as set forth in 26 Del. Admin. C. §8001-1.0 and 26 Del. C. §802(11) in that Iacono operates a gas distribution system at Village of Canterbury, 9000 Rembrandt Circle, Newark, DE 19711 and thus acts as an operator of a buried pipeline facility used in the

transportation of propane gas within the State of Delaware and therefore falls within the Commission's jurisdiction; and

**WHEREAS**, it is Commission Staff's understanding that Iacono has contracted with Boulden Propane for propane supply and performing certain requirements mandated by 49 C.F.R., Part 192 for Iacono's propane gas distribution system; and that Boulden Propane contracted with CUI Mechanical Contractors to prepare a Gas Leak Detection Survey of the Underground Gas Distribution System at the Village of Canterbury (the "Gas Leak Survey"); and

**WHEREAS**, the Commission posted notice at 3:00 p.m. on October 30, 2015 that this matter would be considered at its November 3, 2015 meeting by revising its Agenda, which was originally posted on October 27, 2015 and subsequently revised on October 28, 2015. As required by 29 Del. C. §10004(e)(3), the Commission's Revised Agenda provided an explanation as to why the public notice required by 29 Del. C. §10004(e)(2) could not be given, noting that "THIS ITEM WAS ADDED AFTER THE INITIAL AGENDA POSTING BECAUSE ITEM REFLECTS A PUBLIC SAFETY CONCERN THAT WAS UNKNOWN AND REQUIRES IMMEDIATE COMMISSION ACTION TO RESOLVE"; and

**WHEREAS**, Commission Staff notified Iacono on November 2, 2015 by telephone voice mail and by emailing a copy of the Memorandum, Revised Agenda, and Proposed Order that the matter would be considered by the Commission at its November 3, 2015 meeting, and Commission Staff, by telephone and by emailing a copy of the Memorandum, Revised Agenda, and Proposed Order notified Mark Prata of Daisy Construction, which is

the company Iacono has contracted with to manage Village of Canterbury and its associated propane gas distribution system; and Commission Staff provided by email a copy of the Memorandum, Revised Agenda, and Proposed Order to Delmarva Power & Light Company; and

**WHEREAS**, pursuant to 26 *Del. Admin. C.* §8001-8.0, the Commission has the authority to issue a Corrective Action Order, as referenced in 49 U.S.C. § 60112(d), if it "finds that a Regulated Facility is hazardous (a "Hazardous Facility") to life or property" and such Corrective Action Order may require the Operator to take "immediate corrective action," which may include: "8.1.1 Suspended or restricted use of the Hazardous Facility; 8.1.2 Physical inspection; 8.1.3 Testing; 8.1.4 Repair; 8.1.5 Replacement; or 8.1.6 Other appropriate action"; and

**WHEREAS**, pursuant to 26 *Del. Admin. C.* §8001-8.0, the Commission has the authority when "Staff determines there is a serious and imminent threat to life, property, or the environment" to "issue an emergency Corrective Action Order." Under such circumstances, if "the Corrective Action Order is issued without a prior hearing, the Commission shall give the Operator written notice and an opportunity for a hearing before the Commission or its designated hearing examiner as soon as possible after the issuance of the Corrective Action Order"; and

**WHEREAS**, a member of the Commission's staff ("Staff") performed a standard inspection of Iacono's records and facilities for the properties located at Village of Canterbury, 9000 Rembrandt Circle,

Newark, DE 19711 and noted his findings in a written Memorandum dated October 30, 2015; and

**WHEREAS**, during this inspection, the Gas Leak Survey, which was prepared by CUI Mechanical Contractors and provided to Boulden Propane on a date reported by Boulden Propane to be in May 2015, was provided to Commission Staff. The Gas Leak Survey found "the system to be unsafe" and recommended to "replace the system... as soon as possible"; and

**WHEREAS**, the current pipeline distribution system for Iacono is a propane system, and it is Staff's understanding that the heating and hot water equipment are propane-operated. In a separate telephone conversation with a representative of Delmarva Power & Light ("DPL"), confirmation was received of an "Agreement for Installation of Facilities" (the "Agreement") between Iacono and DPL. In short, this Agreement instructs DPL to replace the entire underground pipeline system so that the Operator may convert all of its equipment from propane-fueled to natural gas-fueled. In the telephone conversation, a reasonable construction duration for the DPL scope-of-work of the Agreement was discussed; and

**WHEREAS**, Staff has determined that the current pipeline distribution system for Iacono poses a serious and imminent threat to life and property as noted by the Gas Leak Survey, and Staff has recommended that the Commission take immediate action, as permitted by 26 Del. Admin. C. §8001-8.0, and issue a Corrective Action Order (the "CAO") that should include the following:

1. A weekly leak survey of the entire property to begin immediately with results filed with the Commission until the conversion of the entire complex to natural gas is complete.
2. Any leaks found during weekly surveys shall be repaired immediately, regardless of the nature or "Grade" of the leak.
3. DPL shall immediately begin the work defined in the Agreement with the Operator. DPL shall make every attempt to complete this work within four (4) months from the date of the CAO.
4. If the conversion to natural gas of this complex is not 100% completed within four (4) months, the Commission shall consider further action at that time, including the possibility of ordering the Operator to shut down operation of the propane pipeline system.

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE  
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. Pursuant to 26 Del. Admin. C. §8001-8.0, the Commission finds that the current pipeline distribution system for Iacono located at Village of Canterbury, 9000 Rembrandt Circle, Newark, DE 19711 poses a serious and imminent threat to life and property as noted by the Gas Leak Survey.

2. The recommendations of Staff are hereby adopted as follows in this Corrective Action Order:

- a. Iacono shall conduct weekly leak surveys of the entire property beginning immediately and shall file the results with the Commission until the conversion of the entire complex to natural gas is complete.
- b. Any leaks found during weekly surveys shall be repaired immediately, regardless of the nature or "Grade" of the leak.
- c. DPL shall immediately begin the work defined in the Agreement with the Operator. DPL shall make every attempt to complete this work within four (4) months from the date of the CAO.

- d. If the conversion to natural gas of this complex is not 100% completed within four (4) months, the Commission shall consider further action at that time, including the possibility of ordering the Operator to shut down operation of the propane pipeline system.

3. Pursuant to 26 *Del. Admin. C.* §8001-8.2, Iacono and any other affected party shall have the opportunity for a hearing before the Commission or the Commission's designated hearing examiner as to this Order at its meeting on Thursday, December 3, 2015 at 1:00 PM, at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE 19904.

4. The Commission Secretary shall send copies of this Order by certified mail to Iacono, Daisy Construction, and DPL to serve as the "written notice" required by 26 *Del. Admin. C.* §8001-8.2.

5. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

**BY ORDER OF THE COMMISSION:**

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Chair

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Commissioner

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Commissioner

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Commissioner

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Commissioner

ATTEST:

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Secretary